contention was discussed fully in the opinion of the court below on which we rely (Pet. App. 2a-3a). Contrary to petitioner's contention (Pet. 4-5), there is no real conflict in the circuits as to the admissibility of a transcript of recorded testimony. No decision has ever been reversed on such a ground. In *United States* v. *Schanerman*, 150 F. 2d 941 (C.A. 3), the court stated in dictum that such a transcript was properly excluded, but there was in that case no showing that the transcript was accurate. Here its accuracy was stipulated. See *United States* v. *Hall*, 342 F. 2d 849 (C.A. 4), certiorari denied, 382 U.S. 812. In *Fountain* v. *United States*, 384 F. 2d 624 (C.A. 5), certiorari denied *sub nom. Marshall* v. *United States*, 390 U.S. 1005, cited by petitioner (Pet. 5), the court specifically approved the use of such a transcript by the jury during the trial to help the jurors identify voices as they listened to the recording. While that decision also approved the trial judge's refusal to send the transcript to the jury during deliberations, it should not be read as holding that such action is ground for reversal where, as here, the essential accuracy of the transcript is unquestioned.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

AUGUST 1971.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1971 440853 83